

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Richard McIntire

**Date application filed with the Town Clerk:** November 28, 2005

**Nature of request:** A Special Permit to convert a single-family to a two-family house under Section 3.321 of the Zoning Bylaw

**Address:** 24 Leverett Road (Map 3C, Parcel 9, R-O Zoning District)

**Legal notice:** Published on December 28, 2005 and January 4, 2006 in the Daily Hampshire Gazette and sent to abutters on December 27, 2005.

**Board members:** Zina Tillona, Hilda Greenbaum and Russell Frank

**Submissions:** The petitioner submitted the following:

- A site plan generated by the Amherst GIS Browser
- A Management plan for the two-family house
- A floor plan of the basement dwelling unit
- A parking plan

Town staff submitted the following:

- A letter from Mark Snow, Building Inspector, notifying Mr. McIntire that they had changed use from a single-family to a two-family dwelling without proper permits, dated 6/6/05.
- A memo from the Fire Department stating that smoke detectors are needed for both units, and that access is adequate for emergency vehicles, dated 12/12/05
- A memo from the zoning assistant outlining the dimensional and parking requirements, dated 1/5/06

**Site Visit:** January 10, 2006

The Board met the McIntire family at the site. They observed the following:

- A large lot with ample parking - i.e., a two-car garage, a barn with parking and a wide driveway
- An unpaved area next to the driveway, also used for parking
- A barn/sugar house some distance away from the house
- A one-story ranch house, with a second unit in the basement
- Two means of egress for each unit

**Public Hearing:** January 12, 2006

Board member Mr. Frank disclosed that he coached basketball teams for which the petitioner's granddaughter played. He stated that he does not believe it will impact his impartiality in any way.

Richard McIntire spoke to the application at the hearing. He was joined by wife Juliene McIntire and son Richard McIntire, Junior.

Mr. McIntire presented the following information:

- Originally the house was built as a cellar house in the early 1960s. Later the owner built a 3-bedroom ranch on top.
- The McIntire family bought the house twenty years ago as a one-family house. They have used it only as a single-family dwelling. The McIntire children in particular enjoyed the basement extra space as teenagers.
- Three years ago, the adult son relocated to the area and moved back into the house with his family.
- He and his wife wish to sell the house to his son and move to Maine, except for four months in the winter when they plan to return to live in the house and participate in the traditional family maple sugaring operation.
- When the house was inspected for sale, it was discovered that the house needed a Special Permit from the Board of Appeals because the house contains two dwelling units
- Several Building Code requirements must be met as well if the house is to be legally classified as a two-family dwelling.
- To date the family has installed a new septic system, two egress windows in the basement unit, and a wall to separate the furnace area from the basement living space in order to correct some of the Building Code violations.

The applicant would like to know whether the Board will approve the Special Permit for a two-family house before he makes the remaining changes to achieve full compliance with the Building Code.

Assistant Building Commissioner Mark Snow stated that the outstanding code issue is that a fire wall must be installed to separate the basement unit from the first floor unit. Fire resistant boards and dry wall are needed. The Fire Department will make the determination if the existing walls, ceiling and floor are adequate or needed to be replaced.

Mr. Frank asked what constitutes a two-family house. Can the current set-up be reduced to a one-family unit? Mr. Snow replied that the existence of the stove in the basement kitchen is the main determining factor.

The McIntire family all said that they wish to have two kitchens and to have a two-family home. They're hoping that the installation of the fire wall protection may not be a difficult goal to achieve.

Ms. Greenbaum asked whether the entrance to the lower level from the kitchen is the only formal access to the second apartment. The applicant responded that the second exit is the bulkhead, which they plan to replace with an improved doorway entrance that will be easier to use.

Ms. Greenbaum commented that the existing parking area to the side of the driveway is not adequate in its present condition. It was a combination of grass and mud at the site visit. A better surface is needed.

Bill McIntire, Jr. agreed. He stated that he is planning on cleaning out the garage so that both cars can be parked within. Then he wants to put a trap stone cover on the unpaved parking area. He said that the soil is packed down from years of parking there and the stone cover will work well.

Vince O'Connor, 179 Summer Street, apartment #1, spoke in support of the application. He said that he's gone by the house many times during the sugaring operation. Granting them a Special Permit will give the family the option of keeping the sugaring going, he said.

Ms. Greenbaum made a motion to close the evidentiary part of the public hearing. Mr. Frank seconded the motion, and the vote was unanimous to close the hearing.

**Public Meeting:**

The Board agreed that the application meets all the requirements for a converted dwelling under Section 3.3241 of the Zoning Bylaw. That is:

1. The existing residence may be converted into multiple dwelling units.
2. The proposed conversion from one to two units will not exceed the total number allowed on the lot. In an R-O zoning district, the upper limit of units is four (4).
3. n/a
4. There will be no significant changes to the exterior of the building. Altering the bulkhead is the only proposed change.
5. The proposal will be from one to two units, one of which shall be and shall remain owner-occupied.
6. The property is not connected to the public sewer, but the petitioner has installed a new septic system designed to accommodate a six-bedroom home. The basement has the potential for two bedrooms, and the main house has three bedrooms.
7. There is no need to modify any dimensional requirements for the conversion. The existing property is 4.1 acres; 40,000 square feet are required for a 2-family dwelling. All setbacks are exceeded as well.
8. No detached structure is part of the conversion proposal.
9. A management plan has been included as part of the application.
10. More than 2,000 square feet of open space is available per dwelling unit on this parcel.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other two-family dwellings nearby on Pulpit Hill Road and on East Leverett Road. Although a two-family, the dwelling resembles a small single-family ranch on a large lot.

10.382, 10.383 & 10.385 – The proposal would not constitute a nuisance due to pollution, noise, lights, or visually offensive structures, nor would it be an inconvenience to abutters or traffic because nothing is changing in terms of structures or number of people living in the house.

10.384 – Adequate and appropriate facilities would be provided for the proposed use since the Building Code issues must be met before the property can be sold, which is the intention of the applicant.

10.386 & 10.388 – The proposal ensures that it is in conformance with the parking regulations and ensures adequate space for off-street loading and unloading of goods because 4 parking places are required by the Bylaw for a two-unit dwelling, and the petitioner has described provisions for nine spaces. The extra parking area adjacent to the driveway will be graveled.

10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the driveway is wide and straight with no visual obstructions. There is commuting traffic on Leverett Road, but there is clear access to this property; converting to a two-family dwelling would have little impact on traffic flow in the area.

10.391, 10.392, 10.394, 10.395 – No external changes are proposed for the property, so that the historic barn and scenic features are preserved, adequate landscaping and screening are provided, no changes are proposed for the land, and there are no wetlands.

10.397 – The proposal provides adequate recreational facilities and open space for a two-family dwelling since the parcel under consideration is 4.1 acres with a large open yard surrounding the house.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw because it will provide a suitable environment for a two-family dwelling and protect the essential characteristics of the existing rural neighborhood.

### **Zoning Board Decision:**

Ms. Greenbaum moved to APPROVE the application with conditions. Mr. Frank seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit to Richard McIntire under Section 3.321 of the Zoning Bylaw to convert a single family house to a two-family house on the premises at 24 Leverett Road, (Map 3C/Parcel 9, R-O Zoning District), with conditions.

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ZINA TILLONA

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HILDA GREENBAUM

\_\_\_\_\_  
RUSSELL FRANK

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_ 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Section 3.321 of the Zoning Bylaw to convert a single family house to a two-family house on the premises at 24 Leverett Road, (Map 3C/Parcel 9, R-O Zoning District), as requested in the application filed by Richard C. McIntire, subject to the following conditions:

1. The parking area on the northern side of the driveway shall be paved or graveled.
2. All necessary Building Code requirements shall be met prior to issuance of a certificate of occupancy as a two-family dwelling.
3. The Special Permit is subject to Section 14 of the Zoning By-Law. Phased Growth. Development authorization for the second dwelling unit is available as of March, 2006.

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ZINA TILLONA, Chair  
Amherst Zoning Board of Appeals

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DATE